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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/015,616	01/29/1998	JEAN NORVELL	FA/141A	5936

7590 04/08/2004

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EXAMINER

JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/015,616

Applicant(s)

NORVELL ET AL.

Examiner

Cheryl Juska

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26, 35, 37-43, 49 and 51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26, 35, 37-43, 49, 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-20, 22026, 35, 37-40, 49, and 51 stand rejected under 35 USC 103(a) as being unpatentable over US 5,026,591 issued to Henn et al. in view of EP 445 394 issued to Lumb, as set forth in section 8 of the last Office Action.
3. Claims 21 and 41-43 stand rejected under 35 USC 103(a) as being unpatentable over the cited Henn and Lumb references as applied to claim 1 above, and in further view of US 5,376,441 issued to Wu et al., as set forth in section 9 of the last Office Action.

Response to Arguments

4. Applicant does not amend the claims, but merely presents arguments against the rejections of the last Office Action. Said arguments are persuasive with respect to the 112, 2nd rejection set forth in section 6 of the last Office Action.
5. Applicant traverses the prior art rejection by arguing that the claims were rejected over the combined art of Henn and Lumb in a prior Office Action and said rejection was subsequently dropped due to an amendment and arguments by applicant. As such, applicant asserts the above rejection of the claims over Henn and Lumb should be withdrawn. (Remarks, page 2, 4th and 5th paragraphs.) The examiner respectfully disagrees.

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6. Specifically, the previous art rejection based upon Henn and Lumb was originally presented in the first action on the merits (Non-final Rejection, October 7, 1999, sections 15 and 17). Only claims 16 and 20 were rejected over this combination of art. In particular, Lumb was relied upon to teach (a) flock fiber materials which were not disclosed by Henn (i.e., polyester flock fibers) and (b) flock adhesive in the form of a foam. These rejections were withdrawn in the Office Action of December 16, 2002. The reason for said withdrawal was applicant's arguments with respect to the primary reference of Henn. Applicant had shown that the claimed wear cycles to leakages values were not inherent to the flocked substrate of Henn, which was not flocked by an electrostatic method. Therefore, the 102/103 rejection of claim 1 by Henn was withdrawn. Because the primary rejection by Henn was withdrawn, the secondary rejection of claims 16 and 20 over Henn in view of Lumb was also withdrawn.

7. Hence, the rejection of claims 1-20, 22-26, 35, 37-40, 49, and 51 over Henn in view of Lumb set forth in section 8 of the last Office Action is a new rejection that had not been made in previous actions. Specifically, independent claim 1 had not been rejected over said combination of art. Nor, had the claims been rejected over the particular combination of said art. In other words, the argument that it would have been obvious to modify the flocking process of Henn with the flocking process of Lumb (i.e., electrostatic method) had not been made in previous actions. Therefore, applicant's argument is found unpersuasive and the above rejections are maintained.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cj
April 4, 2004


CHERYL A. JUSKA
PRIMARY EXAMINER